

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.09.2020

PRONOUNCED ON : 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition Nos.10975 and 10314 of 2020
& WMP Nos.13348, 13350, 12536, 12534, 13355 & 12535 of 2020

W.P.No.10975 of 2020

Tmt. B. Kavitha Petitioner

-Vs-

1. The Government of Tamil Nadu
Represented by its Secretary,
Rural Development Department,
Fort. St. George, Chennai - 600 009
2. The Director of Rural Development Department
Panagal Buildings,
Saidapet, Chennai - 600 015.
3. The District Collector,
Vellore District.
4. The District Collector,
Ranipettai District. Respondents

Prayer in WP 10975/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the impugned order passed by the 3rd respondent herein in his proceeding Na.Ka.Pa.B1/10734/2019 dated 15.06.2020 and the consequential impugned order passed by the 4th respondent herein in his proceeding Na. Ka.Pa. A2/4734/2020-2 dated 06.07.2020 and quash the same in so far as the petitioner is concerned and consequently direct the third respondent herein to retain the petitioner in Vellore District.

W.P.No.10314 of 2020

Tmt.V.B.Deepa Petitioner

-Vs-

1. The Government of Tamil Nadu
Represented by its Secretary,
Rural Development Department,
Fort. St. George, Chennai - 600 009
2. The Director of Rural Development Department
Panagal Buildings,
Saidapet, Chennai - 600 015.
3. The District Collector,
Vellore District.
4. The District Collector,
Tirupathur District. ... Respondents

Prayer in WP 10314/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the impugned order passed by the 3rd respondent herein in his proceeding Na.Ka.Pa.B1/10734/2019 dated 15.06.2020 and the consequential impugned order passed by the 4th respondent herein in his proceeding Na.Ka.Pa.A2/4735/2020-2 dated 06.07.2020 and quash the same and consequently direct the 3rd respondent herein to retain the petitioner in Vellore District.

For Petitioners
in both Wps : Mr.K.Raja

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

C O M M O N O R D E R

The petitioners are working as Deputy Block Development Officers in the erstwhile Vellore District. Recently Vellore District was trifurcated into three districts; 1) Vellore District 2) Ranipet District and 3) Tirupattur District. According to these petitioners, they have given their option to be retained in Vellore District itself as their first choice, as there were vacancies available in their position. While so, by an order dated 06.07.2010, the petitioners have been transferred and posted to Ranipet / Tirupattur Districts. Aggrieved by the transfer, these petitioners are before this Court.

2. Notice was ordered in the writ petitions and Mr.P.S.Siva Shanmugasundaram, learned Special Government Pleader entered appearance on behalf of the respondents. A counter affidavit has also been filed in both the writ petitions.

3. Mr.K.Raja, learned counsel appearing for the petitioners would submit that in the cadre of Deputy Block Development Officer, sufficient vacancies are available for accommodating these petitioners and in such circumstances transferring these petitioners to the other newly formed Districts was not called for. Moreover, he would submit that some of the vacancies have been allotted to the newly promoted juniors of the petitioner from the feeder grade. According to the learned counsel for the petitioners, the transfer of the seniors to different Districts and accommodating juniors who have just been promoted in the same District is patently arbitrary and unjust and therefore on this ground, the transfer orders need to be interfered with.

4. The learned counsel would also refer to a recent direction passed by this Court on 22.07.2020 in W.P.No.9454, 9459, 9460, 9462 and 9463 of 2020 to consider the request of the petitioners therein for accommodating them in the same District and on the basis of the directions passed by this Court, an order was passed on 18.08.2020 posting them back in Vellore District itself, and the petitioners herein cannot be discriminated against.

5. The learned counsel would further submit that as per the guidelines dated 25.10.2019 and particularly with reference to guideline VIII of the Procedures to be followed, such inter-district transfer can only be in the nature of deputation for a tenure. In the case on hand, no such guidelines has been followed. The learned counsel would also refer to certain other categories like drivers who were re-accommodated to Vellore District in consideration of their request.

6. Learned Special Government Pleader Mr.P.S.Sivashanmugasundaram strongly opposed that it is entirely within the District Administration's prerogative to relocate these officers for effective continuity of administration in the newly formed Districts. According to the learned Special Government Pleader, since these petitioners are experienced Deputy Block Development Officers, their services were required in the newly formed Districts for effective guidance and continuance of district administration. Only in such view, these petitioners were transferred to the newly formed Districts viz., Tirupattur and Ranipet.

7. Learned Special Government Pleader would also extensively rely on the detailed counter affidavit filed wherein it is clearly spelt out as to the number of sanctioned posts and the vacancies available in three Districts.

8. In fact he would refer to a tabular column in the counter affidavit which detailed the vacancy position and would submit that in order to maintain proportionate vacancies in all the three districts, the officers were distributed. If these writ petitioners are to be accommodated in Vellore District itself, the vacancies in other two Districts would disproportionately be higher and it will affect the smooth administration of the newly formed Districts.

9. Moreover, the learned Special Government Pleader also submits that the petitioners are also not seniors as claimed by them and the seniority position has also been explained in the tabular column incorporated in the counter affidavit. As regards the other instances cited by the petitioners, learned Special Government Pleader submits that they belong to a different category whereas the cadre of Deputy Block Development Officer belongs to subordinate service and they work as Zonal Deputy Block Development Officer and look after the monitoring and supervising cadre in the Panchayat Union and Village Panchayats. In respect of complying with the directions in a batch of writ petitions, the learned Special Government Pleader would submit that they also belong to a different service and they cannot be compared with the cadre of Deputy Block Development Officers. Therefore he would submit that there is absolutely no merit and substance in the writ petitions and no grounds are made out for interference in the transfers which were made in public interest.

10. This Court considered the submissions of the learned counsel for the petitioner Special Government Pleader, and perused the materials and pleadings placed on record.

11. Although it is admitted that there are vacancies in Vellore District in the cadre of Deputy Block Development Officers, the posting of these petitioners to the newly formed Districts has been explained in detail to the satisfaction of this Court. Every objection that has been raised on behalf of the petitioners has been answered in the counter affidavit. On the basis of such answers, this Court is of the view that the transfer orders ought not to be interfered with.

12. The contentions regarding juniors have been accommodated in Vellore District itself and the petitioners being seniors

have been transferred out of Vellore District, on behalf of the respondents it is explained that the experience of the seniors was required in the newly formed Districts for effective administration of the District. According to this Court, such consideration for transfer appears to be perfectly in order and does not suffer from any infirmity and in fact such transfers are essential in public interest.

13. As regards the another contention of re-accommodating the drivers and other category of employees, the petitioners cannot compare themselves with those cadres as they belong to a higher cadre and their services were required for the smooth functioning of the newly formed District Administration. Only when the petitioners compared themselves with their equals and finding any disparity in treatment, they can legitimately complain of violation of equality principles enshrined in Article 14 of the Constitution of India. In this case, no such comparison can be drawn by the petitioners for taking refuge under Article 14 of the Constitution of India.

14. Moreover, in the counter affidavit it has been very clearly established as to the proportionality of vacancies to be maintained among the three Districts. As rightly contended by the learned Special Government Pleader that if all these petitioners are re-accommodated in Vellore District itself, it would unduly tilt the balance of proportionality of vacancies in favour of Vellore District at the cost of the other two Districts. Such a scenario would not advance good governance and public interest.

15. As regards the guidelines to be followed dated 25.10.2019, once it is termed as guideline it cannot per se be construed as mandatory. In any event, it is always open to the competent authority to relocate its officers in the Districts for effective running of the District Administration. When the transfers are made for administrative consideration and the facts as disclosed in the counter affidavit support such administrative requirement, the petitioners cannot find fault with the transfer order simply on the basis of certain personal difficulties faced by them.

16. It is trite in law that transfer is an incidence of any Government service and the transfer could be challenged only on limited grounds of violation of any mandatory regulation or passed for any extraneous consideration. In this case, this Court is fully convinced with the transfer orders are effected only for a bonafide consideration and requirement, as clearly explained by the respondents in the counter affidavit and in such circumstances, the petitioners cannot have any legitimate cause for grievance in challenging transfer orders.

17. On the whole, this Court finds that the present challenge by these petitioners has to fail as the challenge is without any substance or merits. Therefore, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

18. However, de hors the dismissal of the writ petition the Authority concerned is at liberty to consider the representation of the petitioners at a later point of time, after the stated objective is achieved in accommodating the petitioners as per option exercised by them. It is also open to the petitioners to renew their request for such consideration in future.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamil Nadu,
Rural Development Department,
Fort. St. George, Chennai - 600 009
2. The Director of Rural Development Department
Panagal Buildings,
Saidapet, Chennai - 600 015.
3. The District Collector,
Vellore District.
4. The District Collector,
Ranipettai District.
5. The District Collector,
Tirupathur District.

+2cc to Mr.K.Raja, Advocate Sr.30540

+1cc to the Government Pleader Sr.30411, 30410 & 29265

W.P.No.10975 and
10314 of 2020

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srg 22/10/2020